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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,184	11/29/2003	Kevin Martzloff	82RK0023U	9855
42173	7590	05/14/2007		
LAW OFFICE OF RICHARD B. KLAR 145 WILLIS AVENUE MINEOLA, NY 11501			EXAMINER WALCZAK, DAVID J	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 05/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

11

Office Action Summary	Application No. 10/725,184	Applicant(s) MARTZLOFF, KEVIN	
	Examiner David J. Walczak	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8-12 is/are allowed.
- 6) ☒ Claim(s) 7 and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I (claims 1-19) in the reply filed on 3/29/07 is acknowledged. Claim 20 is hereby withdrawn from further consideration.

Abstract

The abstract of the disclosure is objected to because phrases that can be implied, such as "is provided" (see line 1) should not be present therein. Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to because reference character 30 (see page 6, line 2) is not present therein. Further, in Figures 4 and 5, reference character 54 is not directed to the opening in the front portion 44, as the specification indicates on page 7, lines 1-2.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

On page 6, line 3, "reservoir 26" should be --reservoir 28--.

On page 7, line 7, "opening 54" should be --opening 48--.

On page 7, line 17, "valve member 44" (both occurrences) should be --valve member 36--.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The limitations defined in claims 7, 9, 10, 11, 18 and 19 do not have antecedent basis in the specification.

Claim Objections

Claim 5 is objected to because of the following informalities: On line 2 of claim 5, it appears that "able" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 7 and 13-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 7 and 18, it is unclear as to what structure the term "magic" marker is defining.

In regard to claim 13, it is unclear as to whether or not the ink/glitter mixture is intended to be part of the claimed combination. For example, on lines 4 and 9 of claim 13, it appears that the ink/glitter mixture is not intended to be claimed, however, the language on line 8 of the last paragraph in claim 13 seems to indicate that the ink/glitter mixture is being claimed. Should the Applicant intend to claim the ink/glitter mixture, an antecedent basis for the ink/glitter mixture should be defined. It is noted that since the ink/glitter mixture is positively claimed in the last paragraph of claim 13, this claim will be examined as if the ink/glitter mixture is intended to be part of the claimed combination.

Further in regard to claim 13, on lines 27 and 28, "ink/glitter control assembly housing should be ink/glitter mixture.

In regard to claim 15, an antecedent basis for "the ink supply housing" should be defined. It appears that "the ink supply housing" should be --the control assembly housing--.

Allowable Subject Matter

Claims 1-6 and 8-12 are allowed.

Claims 13-19 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

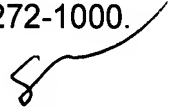
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The 6,224,284 reference is cited for disclosing another marker that dispenses an ink/glitter mixture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
5/9/07